

**BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION**

IN RE: Elizabeth H. Morreim )  
Ward 091, Block 105, Parcel 00058 ) Shelby County  
Residential Property )  
Tax Year 2005 )

## INITIAL DECISION AND ORDER

## Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$37,000	\$203,000	\$240,000	\$60,000

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on February 15, 2006 in Memphis, Tennessee. In attendance at the hearing were Elizabeth H. Morreim, the appellant, and Shelby County Property Assessor's representatives Ron Palmer and John Zelinka, Esq.

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a single family residence constructed in 1985 located at 8343 Stavenger Cove in Cordova, Tennessee. Subject residence contains a total of 4,156 square feet of living area. Approximately 1,200 square feet of the living area consists of a single large room over the garage. Most homes in the immediate area contain between 2,000 and 3,000 square feet of living area.

The taxpayer contended that subject property should be valued at a maximum of \$200,000. In support of this position, the taxpayer essentially presented four arguments to substantiate her position. First, the taxpayer argued that the assessor's comparables represent the highest sales in the subdivision and are not indicative of subject property's market value. Second, the taxpayer asserted that subject property experiences a loss in value because it is surrounded by significantly smaller homes and the room over the garage accounts for over 25% of the square footage. Third, the taxpayer presented numerous sales to establish that the square foot sale price of a home typically decreases with size. Fourth, the taxpayer claimed subject property experiences a diminution in value due to the following factors: (1) subject property is located in an area with slow sales and some declining values due to the availability of new homes and the annexation by the City of Memphis; (2) subject property is very near Walnut Bend, a street with significant traffic problems; (3) all the bedrooms are upstairs whereas many buyers prefer at least the master

bedroom to be on the first floor; and (4) several major power lines are located directly behind subject property.

The assessor contended that subject property should be valued at \$230,000. In support of this position, a spreadsheet summarizing five comparable sales was introduced into evidence. Mr. Palmer maintained that the comparable sales would normally support a value indication of at least \$240,000. However, Mr. Palmer agreed that subject property experiences a loss in value due to all the bedrooms being located on the second floor. Accordingly, Mr. Palmer recommended a value of \$230,000.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at \$230,000 as contended by the assessor of property.

Since the taxpayer is appealing from the determination of the Shelby County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The administrative judge finds that the "bottom-line" issue in this appeal concerns the contributory value of the 1,200 square feet of living area above the garage. The administrative judge finds that for all practical purposes the taxpayer attributes no contributory value to that space. Respectfully, the administrative judge finds that the taxpayer's own proof requires rejection of her position.

The administrative judge finds that the taxpayer arrayed every sale in subject subdivision by size from 2002 to 2004 to show that the sales prices declined as the square footage increased. Given the lack of sales over 3,000 square feet, the taxpayer extrapolated a value of \$48.12 per square foot or \$199,987 for the subject property as will be discussed below.

The administrative judge finds that the taxpayer's methodology does not comport with generally accepted appraisal practices. Moreover, the taxpayer's contention of value appears unrealistic given the absolute sales prices of several other significantly smaller homes. For example, the taxpayer's exhibit includes the following sales:

<u>ADDRESS</u>	<u>SQUARE FOOTAGE</u>	<u>SALE PRICE (\$)</u>	<u>SALE DATE</u>
134 Walnut Creek	2,995	199,000	6/03
8166 Walnut Creek	2,890	195,000	7/02
8150 Planter's Grove	2,531	229,000	10/03
31 Redthorn Cove	2,838	191,900	6/04
21 Vine Grove	2,572	203,000	9/04
72 Vine Grove	2,689	196,500	11/04
129 Country Place	2,964	207,000	11/04
20 Redthorn Cove	3,451	230,000	6/04
26 Redthorn Cove	3,082	220,000	11/02
90 Country Place	3,070	199,900	8/03

The administrative judge finds that even if the sales of the homes located at 20 and 26 Redthorn Cove are excluded,<sup>1</sup> eight sales of much smaller homes have commanded sales prices ranging from \$191,900 to \$229,000. Respectfully, the taxpayer's logic requires one to conclude that a prospective buyer would attribute absolutely no value to the 1,200 square feet of living area over the garage. The administrative judge finds such an assertion strains credulity.

The administrative judge finds that the most significant problem with the taxpayer's methodology concerns the use of averages. As explained in one authoritative text, when deriving an estimate of value from comparable sales:

**In selecting the single value estimate, the assessor must never average the results.** Rather, the process requires the assessor to review the adjustments made and place the greatest reliance on the most comparable property. This comparable is the one that requires the fewest adjustments. [Emphasis added.]

International Association of Assessing Officers, *Property Assessment Valuation* (2<sup>nd</sup> ed. 1996), pp. 123-24. Although the taxpayer's presentation was well prepared and organized, it did not conform to generally accepted appraisal methodology in this key respect.

The administrative judge finds the use of averages compounded by the fact the sales were not verified and almost certainly include a number of distressed sales that should not even be considered. For example, the sale of the 3,039 square foot home located at 115 Walnut Creek for \$110,000 cannot possibly be indicative of market value.

The administrative judge finds that rather than averaging comparable sales, generally accepted appraisal practices require that comparables be adjusted. As explained by the Assessment Appeals Commission in *E.B. Kissell, Jr.* (Shelby County, Tax Years 1991 and 1992) as follows:

The best evidence of the present value of a residential property is generally sales of properties comparable to the

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<sup>1</sup> The taxpayer asserted that those sales involved out-of-town buyers who overpaid. Respectfully, the administrative judge finds nothing in the record to establish who the purchasers even were. Moreover, the administrative judge finds the fact the purchasers may not have been "locals" does not by itself establish they were uninformed buyers.

subject, comparable in features relevant to value. Perfect comparability is not required, but relevant differences should be explained and accounted for by reasonable adjustments. If evidence of a sale is presented without the required analysis of comparability, it is difficult or impossible for us to use the sale as an indicator of value. . . .

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The administrative judge finds that the procedure typically utilized in the sales comparison approach has been summarized by one authoritative text as follows:

To apply the sales comparison approach, an appraiser follows a systematic procedure.

1. Research the competitive market for information on sales transactions, listings, and offers to purchase or sell involving properties that are similar to the subject property in terms of characteristics such as property type, date of sale, size, physical condition, location, and land use constraints. The goal is to find a set of comparable sales as similar as possible to the subject property.
2. Verify the information by confirming that the data obtained is factually accurate and that the transactions reflect arm’s-length, market considerations. Verification may elicit additional information about the market.
3. Select relevant units of comparison (e.g., price per acre, price per square foot, price per front foot) and develop a comparative analysis for each unit. The goal here is to define and identify a unit of comparison that explains market behavior.
4. Look for differences between the comparable sale properties and the subject property using the elements of comparison. Then *adjust the price of each sale property to reflect how it differs from the subject property or eliminate that property as a comparable*. This step typically involves using the most comparable sale properties and then adjusting for any remaining differences.
5. Reconcile the various value indications produced from the analysis of comparables into a single value indication or a range of values.

[Emphasis supplied]

Appraisal Institute, *The Appraisal of Real Estate* at 422 (12<sup>th</sup> ed. 2001).

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2005:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$37,000	\$193,000	\$230,000	\$57,500

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 23rd day of February, 2006.

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MARK J. MINSKY  
ADMINISTRATIVE JUDGE  
TENNESSEE DEPARTMENT OF STATE  
ADMINISTRATIVE PROCEDURES DIVISION

c: Elizabeth H. Morreim  
Tameaka Stanton-Riley, Appeals Manager